IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 582 OF 2006

M/S. ASIATIC ESTATE DEVELOPMENTS AND ANR ....Petitioners

Versus

MRS. PHILOMENA D' SOUZA AND 10 ORS. ....Respondents

Ms. Susan Linhares, for the Petitioners.

Coram:- J. N. PATEL, J.

Date:- 1st December, 2006

P.C.:

The Suit is of 1996, which is expedited by the High Court in which the defendants moved the Court for summoning the witnesses to be examined on their behalf. The Court, considering the limitation of time, called upon the defendants to get their witnesses and examine them.

On specific query being made to the learned counsel for the petitioners, it is fairly conceded that the witnesses whom the defendants want to examine are reluctant to depose in favour of the defendants. The learned counsel for the defendants/petitioners submits that the defendants only want to procure their presence in Court. Though they may not depose in their favour, at least the defendants would get a chance to cross-examine them.

Further that the defendants expect certain documents to be produced through them. Admittedly the defendants have not taken steps to issue summons against such witnesses for production of the documents nor these witnesses have been mentioned in the list of witnesses furnished to the Court before the commencement of their evidence. Therefore, in the

facts and circumstances of the case, the trial Court was justified in rejecting the application and closing the case of the defendants as they did not take steps even to file the affidavit of the so called witnesses to procure their presence.

The petition is dismissed.

J. N. PATEL, J.

sl.